



UNITED STATES PATENT AND TRADEMARK OFFICE

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Dear Customer:

We are unable to complete your order due to the following reason:

The official filing receipt has not been issued for this application. Therefore, the electronic data base does not contain sufficient information to provide a certified copy of the patent application requested. Enclosed you will find a copy of the Official Gazette Notice dated June 10, 1997, reminding customers not to order certified copies until the filing receipt is received.

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Changes In Practice In Supplying Certified Copies And Filing Receipts

For many years, all newly filed patent applications were microfilmed by the Patent and Trademark Office (PTO) after all required parts of the applications were received. Since a certified copy of an application was supplied from the microfilm record, when available, the certified copy typically included a copy of the signed oath/declaration required by 37 CFR 1.63. Recently, however, the PTO began phasing out the old microfilm process in favor of a new electronic Patent Image Capture System (PICS). Under the PICS, newly filed patent application papers are optically scanned and an electronic image file is saved in a secure electronic data base which is accessible only to certain authorized PTO employees. In addition, instead of waiting until any required, but missing, parts of the applications are received, the scanning will take place as soon as the applications are found to meet the minimum requirements for granting a filing date under 37 CFR 1.53(b). This means that these newly filed applications may be scanned before basic filing fees and/or oaths/declarations are received.

During the initial pilot phase, a small percentage of newly filed patent applications were both microfilmed under the old process and optically scanned using the new PICS to test the scanning process. After the initial pilot confirmed the viability of the PICS system, new applications have been either scanned or microfilmed, and the Office plans to increase the percentage of applications being scanned until all newly filed patent applications are scanned and no applications are microfilmed. The PICS system should be fully implemented by the end of May 1997. The new electronic data base is presently being used to supply certified copies of newly filed patent applications, if the electronic data base contains the particular patent application for which a certified copy is requested.

In conjunction with the implementation of the PICS, the Office of Initial Patent Examination (OIPE) has instituted new procedures for issuing filing receipt notices to all new patent applications that meet the minimum requirements for granting a filing date under 37 CFR 1.53(b). Previously, a filing receipt was issued only after the patent application met all requirements necessary for the application to begin examination. Thus, the issuance of the filing receipt (and the corresponding notification of granting of the foreign filing license) was delayed whenever either a "Notice Of Omitted Item(s)" or a "Notice To File Missing Parts" was mailed in the application. Under OIPE's new procedures, the PTO will begin issuing filing receipts at the time a determination is made that the application meets the minimum requirements to receive a filing date. The filing receipt will provide the same bibliographic information as before when the information is available in the application as filed. A "Notice Of Omitted Item(s)" or a "Notice To File Missing Parts," if needed, will be mailed separately. Examination of the application will not begin until all the required parts (e.g., filing fee and oath/declaration) are received. 37 CFR 1.53(e) (1).

As a result of the above changes in practice, applicants may notice that a certified copy supplied by the PTO of a newly filed patent application may or may not include a copy of the signed oath or declaration, depending on when the oath or declaration was filed in the PTO and on whether the application was scanned or microfilmed. Applicants are reminded, however, that a copy of the signed oath or declaration is not required to comply with the requirements of the Paris Convention. Copies

of individual papers filed after the application filing date, e.g., an oath/declaration or a preliminary amendment, will be supplied separately upon request at the published fee. See 37 CFR 1.19(b)(3). If a petition for a later filing date under 37 CFR 1.182 is granted, a new filing receipt will be issued. A certified copy of the application supplied after the petition has been granted will include both the papers actually filed on the original deposit date as well as the page/figure supplied on the later filing date of the application.

In order to further reduce the time for processing requests for certified copies, the PTO is waiving, sua sponte, the requirements of 37 CFR 1.53(d)(1), (d)(2) and 1.59 for payment of either the basic filing fee or the processing and retention fee in an application before any copies of the application will be provided by the PTO. Effective immediately, copies of an application will now be provided by the PTO upon request at the usual cost without regard to whether the basic filing fee or the processing and retention fee has been paid in the application. While copies of an application will now be provided without regard to whether the basic filing fee or the processing and retention fee has been paid, the basic filing fee or the processing and retention fee must still be paid in a nonprovisional application, if any claim for benefits under 35 U.S.C. 120, 121, or 365(c) based on that application is made in a subsequently filed copending nonprovisional application. 37 CFR 1.78(a)(1). For any claim to be made under 35 U.S.C. 119(e) based on a prior copending provisional patent application, the basic filing fee must still be paid in the provisional application. 37 CFR 1.78(a)(3).

Applicants are also reminded that requests for certified copies of applications should not be requested until the filing receipt is received. Also, if the individual requesting the certified copy is not a named inventor, an attorney or agent of record, or an assignee of record, the certified copy will only be supplied by mailing the certified copy to the correspondence address provided in the application.

These changes in practice should reduce delays in the issuance of filing receipt notices and enable the Certification Division to supply certified copies of the application, as filed, more promptly after the filing receipt is received.

Questions regarding the change in procedure relating to filing receipts should be directed to OIPE's Customer Service Center at (703) 308-1202.

Questions regarding the change in procedure relating to certified copies should be directed to the Certification Division at (703) 308-9700 or E-mail address: certdiv@uspto.gov.

May 13, 1997

BRUCE A. LEHMAN
Assistant Secretary of Commerce and
Commissioner of Patents and Trademarks

U.S. DEPARTMENT OF COMMERCE
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